

AMENDED IN SENATE JUNE 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1208

Introduced by Assembly Member Silva

February 23, 2007

An act to amend Sections 36522, 36535, 36541, 36622, 36623, 36636, 36712, ~~and~~ 36714, *and* 36735 of the Streets and Highways Code, relating to improvement districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1208, as amended, Silva. Improvement districts.

Existing law, the Parking and Business Improvement Area Law of 1989, authorizes local governmental entities to levy assessments on businesses located and operating in a parking and business improvement area. Existing law requires specified proceedings to establish or modify a parking and business improvement area, including the adoption of a resolution by the governing body and a public hearing. Existing law requires these public hearings to be completed within 30 days of the adoption of the resolution indicating the intent to establish or modify a parking and business improvement area.

This bill would delete the 30-day limit for completion of those public hearings.

Existing law, the Property and Business Improvement District Law of 1994, authorizes local governmental entities to levy assessments on properties and businesses within a business improvement district for the purpose of financing certain improvements. Existing law requires the management district plan for a business improvement district to include certain information, including a description of the boundaries of the district. Existing law prohibits the boundaries of a proposed

district to overlap with the boundaries of an existing district. Existing law specifies that this prohibition does not apply to business improvement districts overlapping with other improvement areas. Existing law requires a local governmental entity to provide specified notice and hearing if the governing body proposes to *modify a management district plan*, to levy an assessment, or to impose a new or increased assessment.

This bill would revise the limitation on the overlapping of business improvement districts to instead prohibit the overlapping of proposed and existing property assessment districts. The bill would require different provisions of existing law relating to notice and hearing procedures to be applied to new or increased property assessments and business assessments, as specified. *The bill would also revise the notice and hearing procedures to be applied to proposed modifications of a management district plan.*

Existing law, the Multifamily Improvement District Law, provides that upon submission of a written petition, signed by either more than $\frac{2}{3}$ of the property owners or more than $\frac{2}{3}$ of the business owners in a proposed multifamily improvement district, the governing body may initiate proceedings to form a multifamily improvement district, as specified. *Existing law requires the governing body to provide specified notice and hearing if the governing body proposes to modify a management district plan.*

This bill would authorize a governing body to initiate proceedings to form a multifamily improvement district upon the submission of a written petition signed by either property owners or business owners that would pay more than $\frac{2}{3}$ of the proposed assessment. *The bill would also revise the notice and hearing procedures to be applied to proposed modifications of a management district plan, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 36522 of the Streets and Highways Code
- 2 is amended to read:
- 3 36522. Proceedings to establish a parking and business
- 4 improvement area shall be instituted by the adoption by the city
- 5 council of a resolution of intention to establish the area. The
- 6 resolution of intention shall do all of the following:

1 (a) State that a parking and business improvement area is
2 proposed to be established pursuant to this chapter and describe
3 the boundaries of the territory proposed to be included in the area
4 and the boundaries of each separate benefit zone to be established
5 within the area. The boundaries of the area may be described by
6 reference to a map on file in the office of the clerk, showing the
7 proposed area.

8 (b) State the name of the proposed area.

9 (c) State the type or types of improvements and activities
10 proposed to be funded by the levy of assessments on businesses
11 in the area. The resolution of intention shall specify any
12 improvements to be acquired.

13 (d) State that, except where funds are otherwise available, an
14 assessment will be levied annually to pay for all improvements
15 and activities within the area.

16 (e) State the proposed method and basis of levying the
17 assessment in sufficient detail to allow each business owner to
18 estimate the amount of the assessment to be levied against his or
19 her business.

20 (f) State whether new businesses will be exempt from the levy
21 of the assessment, pursuant to Section 36531.

22 (g) Fix a time and place for a public hearing on the establishment
23 of the parking and business improvement area and the levy of
24 assessments, which shall be ~~held not less than 20 days after the~~
25 ~~adoption of the resolution of intention.~~ *consistent with the*
26 *requirements of Section 54954.6 of the Government Code.*

27 (h) State that at the hearing the testimony of all interested
28 persons for or against the establishment of the area, the extent of
29 the area, or the furnishing of specified types of improvements or
30 activities will be heard. The notice shall also describe, in summary,
31 the effect of protests made by business owners against the
32 establishment of the area, the extent of the area, and the furnishing
33 of a specified type of improvement or activity, as provided in
34 Section 36524.

35 SEC. 2. Section 36535 of the Streets and Highways Code is
36 amended to read:

37 36535. (a) The city council shall hold the public hearing at
38 the time and in the place specified in the resolution of intention.
39 The public hearing shall be conducted as provided in Sections

1 36524 and 36525. The city council may continue the public hearing
2 from time to time.

3 (b) During the course or upon the conclusion of the public
4 hearing, the city council may order changes in any of the matters
5 provided in the report, including changes in the proposed
6 assessments, the proposed improvements and activities to be funded
7 with the revenues derived from the levy of the assessments, and
8 the proposed boundaries of the area and any benefit zones within
9 the area. The city council shall not change the boundaries to include
10 any territory that will not, in its judgment, benefit by the
11 improvement or activity.

12 (c) At the conclusion of the public hearing, the city council may
13 adopt a resolution confirming the report as originally filed or as
14 changed by it. The adoption of the resolution shall constitute the
15 levy of an assessment for the fiscal year referred to in the report.

16 (d) Notwithstanding subdivision (c), if the primary purpose of
17 the area is promotion of tourism, the city council may adopt a
18 resolution confirming the report as submitted by the advisory
19 board, or may adopt a resolution continuing the program and
20 assessments as levied in the then current year without change, and
21 that resolution shall constitute the levy of an assessment for the
22 fiscal year referred to in the report. As an alternative, the city
23 council may modify the report and adopt a resolution confirming
24 the report as modified, but in that case the city council may adopt
25 the resolution only after providing notice of the proposed changes
26 as specified in Section 36523 and only after conducting a public
27 hearing on the resolution as provided in Sections 36524 and 36525.

28 SEC. 3. Section 36541 of the Streets and Highways Code is
29 amended to read:

30 36541. (a) The city council shall modify the basis and method
31 of levying the assessment or the boundaries of the area by adopting
32 an ordinance after holding a public hearing on the proposed
33 modification.

34 (b) The city council shall adopt a resolution of intention which
35 states the proposed modification prior to the public hearing required
36 by this section. The public hearing shall be held not less than 20
37 days after the adoption of the resolution of intention. *consistent*
38 *with the requirements of Section 54954.6 of the Government Code.*
39 Notice of the public hearing shall be published and shall be mailed
40 to each owner of a business affected by the proposed modification,

1 as provided in Section 36523. The public hearing shall be
2 conducted as provided in Sections 36524 and 36525.

3 SEC. 4. Section 36622 of the Streets and Highways Code is
4 amended to read:

5 36622. The management district plan shall contain all of the
6 following:

7 (a) A map of the district in sufficient detail to locate each parcel
8 of property and, if businesses are to be assessed, each business
9 within the district.

10 (b) The name of the proposed district.

11 (c) A description of the boundaries of the district, including the
12 boundaries of any benefit zones, proposed for establishment or
13 extension in a manner sufficient to identify the affected lands and
14 businesses included. Under no circumstances shall the boundaries
15 of a proposed property assessment district overlap with the
16 boundaries of another existing property assessment district created
17 pursuant to this part. Nothing in this part prohibits the boundaries
18 of a district created pursuant to this part to overlap with other
19 assessment districts established pursuant to other provisions of
20 law including, but not limited to, the Parking and Business
21 Improvement Area Law of 1989. Nothing in this part prohibits the
22 boundaries of a business assessment district created pursuant to
23 this part to overlap with another business assessment district
24 created pursuant to this part. Nothing in this part prohibits the
25 boundaries of a business assessment district created pursuant to
26 this part to overlap with a property assessment district created
27 pursuant to this part.

28 (d) The improvements and activities proposed for each year of
29 operation of the district and the maximum cost thereof.

30 (e) The total annual amount proposed to be expended for
31 improvements, maintenance and operations, and debt service in
32 each year of operation of the district.

33 (f) The proposed source or sources of financing including the
34 proposed method and basis of levying the assessment in sufficient
35 detail to allow each property or business owner to calculate the
36 amount of the assessment to be levied against his or her property
37 or business. The plan shall also state whether bonds will be issued
38 to finance improvements.

39 (g) The time and manner of collecting the assessments.

1 (h) The specific number of years in which assessments will be
2 levied. In a new district, the maximum number of years shall be
3 five. Upon renewal, a district shall have a term not to exceed 10
4 years. Notwithstanding these limitations, a district created pursuant
5 to this part to finance capital improvements with bonds may levy
6 assessments until the maximum maturity of the bonds. The
7 management district plan may set forth specific increases in
8 assessments for each year of operation of the district.

9 (i) The proposed time for implementation and completion of
10 the management district plan.

11 (j) Any proposed rules and regulations to be applicable to the
12 district.

13 (k) A list of the properties or businesses to be assessed, including
14 the assessor's parcel numbers for any properties to be assessed,
15 and a statement of the method or methods by which the expenses
16 of a district will be imposed upon benefited real property or
17 businesses, in proportion to the benefit received by the property
18 or business, to defray the cost thereof, including operation and
19 maintenance. The plan may provide that all or any class or category
20 of real property which is exempt by law from real property taxation
21 may nevertheless be included within the boundaries of the district
22 but shall not be subject to assessment on real property.

23 (l) Any other item or matter required to be incorporated therein
24 by the city council.

25 SEC. 5. Section 36623 of the Streets and Highways Code is
26 amended to read:

27 36623. If a city council proposes to levy a new or increased
28 property assessment, the notice and protest and hearing procedure
29 shall comply with Section 53753 of the Government Code. If a
30 city council proposes to levy a new or increased business
31 assessment, the notice and protest and hearing procedure shall
32 comply with Section 54954.6 of the Government Code, except
33 that notice shall be mailed to the owners of the businesses proposed
34 to be assessed.

35 SEC. 6. Section 36636 of the Streets and Highways Code is
36 amended to read:

37 36636. (a) Upon the written request of the owners' association,
38 the city council may modify the management district plan after
39 conducting one public hearing on the proposed modifications. The
40 city council may modify the improvements and activities to be

1 funded with the revenue derived from the levy of the assessments
2 by adopting a resolution determining to make the modifications
3 after holding a public hearing on the proposed modifications.
4 ~~Notice of the public hearing and the proposed modifications shall~~
5 ~~be published as provided in Section 36623.~~ If the modification
6 includes the levy of a new or increased assessment, the city council
7 shall comply with ~~Section 53753 of the Government Code~~ 36623.
8 *Notice of all other public meetings and public hearings pursuant*
9 *to this section shall comply with both of the following:*

10 (1) *The resolution of intention shall be published in a newspaper*
11 *of general circulation in the city once at least seven days before*
12 *the public meeting.*

13 (2) *A complete copy of the resolution of intention shall be mailed*
14 *by first class mail, at least 10 days before the public meeting, to*
15 *each business owner or property owner affected by the proposed*
16 *modification.*

17 (b) The city council shall adopt a resolution of intention which
18 states the proposed modification prior to the public hearing required
19 by this section. The public hearing shall be held not more than 90
20 days after the adoption of the resolution of intention.

21 ~~SEC. 6.~~

22 *SEC. 7.* Section 36712 of the Streets and Highways Code is
23 amended to read:

24 36712. (a) Upon the submission of a written petition, signed
25 by either property owners paying more than two-thirds of the
26 proposed assessment or by business owners paying more than
27 two-thirds of the proposed assessment, the city council may initiate
28 proceedings to form a district by the adoption of a resolution
29 expressing its intention to form a district.

30 (b) The petition of the property owners or the business owners
31 required pursuant to subdivision (a) shall include all of the
32 following:

33 (1) A map showing the general boundaries of the proposed
34 district.

35 (2) A general description of the proposed activities and
36 improvements to be carried out by the district.

37 (3) A general description of how the proposed district will be
38 financed, and whether bonds are proposed to be issued.

39 (c) The resolution of intention described in subdivision (a) shall
40 contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or on businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) Order the preparation of a management district plan by a registered professional engineer certified by the state.

~~SEC. 7.~~

SEC. 8. Section 36714 of the Streets and Highways Code is amended to read:

36714. (a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedures shall comply with Section 53753 of the Government Code. Notwithstanding subdivision (e) of Section 53753 of the Government Code, the city may not establish the district or levy assessments if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed one-third of the total assessment ballots submitted, and not withdrawn, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed.

SEC. 9. Section 36735 of the Streets and Highways Code is amended to read:

36735. (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. Notice of the public hearing and the proposed modifications shall

1 ~~be published as provided in Section 36714.~~ If the modification
2 includes the levy of a new or increased assessment, the city council
3 shall comply with ~~Sections~~ *Section 36714 and 53753 of the*
4 ~~Government Code.~~ *Notice of all other public meetings and public*
5 *hearings pursuant to this section shall comply with both of the*
6 *following:*

7 *(1) The resolution of intention shall be published in a newspaper*
8 *of general circulation in the city once at least seven days before*
9 *the public meeting.*

10 *(2) A complete copy of the resolution of intention shall be mailed*
11 *by first class mail, at least 10 days before the public meeting, to*
12 *each business owner or property owner affected by the proposed*
13 *modification.*

14 (b) The city council shall adopt a resolution of intention which
15 states the proposed modification prior to the public hearing required
16 by this section. The public hearing shall be held not more than 90
17 days after the adoption of the resolution of intention.